

**FILED**

**JUN 14 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENT RAY STRYKER,

Defendant - Appellant.

No. 05-50208

D.C. No. CR-02-01137-ABC-1

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Audrey B. Collins, District Judge, Presiding

Submitted June 6, 2006\*\*  
Pasadena, California

Before: D.W. NELSON, RAWLINSON, and BEA, Circuit Judges.

1. The district court's jury instructions were consistent with *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, 538 U.S. 600 (2003), and did not

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\*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\*This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

allow the jury to convict the Appellant in violation of his First Amendment rights. Instead, the prosecution and the jury instructions properly targeted the scheme to defraud and required the jury to agree on particular false statements or promises, such that “the emphasis [was] on what the [organization] misleadingly convey[ed] . . .” *Id.* at 619.

2. The district court did not abuse its discretion in excluding evidence of Appellant’s work with the California Non-Profit Center for Living and Learning (CNPCLL). The CNPCLL evidence “was irrelevant because it did not deal specifically with the action at hand.” *Wall Data Inc. v. Los Angeles County Sheriff’s Dep’t*, — F.3d —, No. 03-56559, 2006 WL 1329955, at \*8 (9th Cir. May 17, 2006). Moreover, the record adequately reflects that the CNPCLL evidence would have confused or distracted the jury. *See Duran v. City of Maywood*, 221 F.3d 1127, 1132-33 (9th Cir. 2000) (per curiam).

**AFFIRMED.**